

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

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UNITED STATES OF AMERICA, )  
)  
and the STATE OF MISSISSIPPI, )  
)  
Plaintiffs, )  
)  
v. )  
)  
THE CITY OF JACKSON, MISSISSIPPI, )  
)  
Defendant. )  

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Case No. 3:12-cv-790-HTW-LGI  
(Clean Water Act Case)

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UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
THE CITY OF JACKSON, MISSISSIPPI, )  
)  
Defendant. )  

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Case No. 3:22-cv-00686-HTW-LGI  
(Safe Drinking Water Act Case)

**UNOPPOSED ORDER FOR INDEMNIFICATION (CLEAN WATER ACT CASE)**

As discussed by all parties present at the Status Conference held on August 14, 2023, the Court will address the liability and indemnification of the Interim Third-Party Manager Edward “Ted” Henifin, operating through JXN Water, Inc. (the “ITPM”), for the period between July 31, 2023, when the Court entered a Stipulated Order on the Sewer System [Dkt. 40], and August 16, 2023, when the Court entered an Order vacating that Stipulated Order [Dkt. 46], as requested by the parties to permit the United States of America to complete its contemplated public comment

period. Beginning on July 31, the ITPM acted with haste to begin projects to address Sanitary Sewer Overflows (“SSOs”) within the City of Jackson. The ITPM entered agreements with contractors and oversaw projects to fix SSOs, and he succeeded in fixing some of those SSOs through contracts for pipe cleaning and pipe replacement. As the Court explained at the August 14 Status Conference, the ITPM took those actions with the Court’s consent and believing, as the Court did, that the Stipulated Order was effective on the date entered.

At the parties’ request, the Court vacated that Stipulated Order on the Sewer System until the United States can complete the public comment period, summarize those comments, and make a final determination on consent to the Stipulated Order. The ITPM, however, should not be left without indemnity and a limitation of liability for the actions taken under this Court’s authority and in the best interest of the citizens of the City of Jackson.

THEREFORE, the Court ORDERS:

1. During the period from July 31, 2023 through and including August 16, 2023, when the Court vacated the Stipulated Order on the Sewer System (the “Interim Period”), the ITPM was subject to the direct oversight of the Court.

2. Except for instances of willful misconduct or gross negligence, the ITPM and ITPM Agents had and shall retain the status of officers and agents of this Court, and shall be and were vested with the same immunities as vested with this Court. No suit shall be filed against the ITPM or ITPM Agents for work performed or contracts entered during the Interim Period, except as provided in 28 U.S.C. § 959(a) and with the permission of this Court.

3. The City shall indemnify, hold harmless, and defend the ITPM and ITPM Agents from any claim asserted by a third-party with respect to actions taken in their official capacity during the Interim Period and within the scope of the Stipulated Order on the Sewer System, as

entered July 31, 2023, with the exception of any gross negligence or willful misconduct, including but not limited to conduct which constitutes fraud, malice, libel, slander, defamation, or any criminal offense.

4. In light of the need for the ITPM and ITPM Agents to focus their attention on the obligations of the Stipulated Order applying to the Water System and on planning Sewer System projects, unless granted leave of the Court, the ITPM and ITPM Agents may not testify in any litigation or proceeding, other than this case, with regard to acts or omissions of the City, the ITPM, or ITPM Agents relating to the Sewer System, including claims related to work performed or contracts entered during the Interim Period.

The Court further notes that this Order is unopposed by all parties to this matter.

SO ORDERED this the 21st day of August, 2023.

/s/HENRY T. WINGATE

UNITED STATES DISTRICT JUDGE